

Appl. No. 10/630,502
Docket No. P138
Amdt. dated November 7, 2007
Reply to Office Action mailed on June 7, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 1 – 27 are pending in the present application. No additional claims fee is believed to be due. Claims 1 – 18 have been withdrawn as a result of an earlier restriction requirement. Claims 19 – 27 have been rejected under 35 U.S.C. § 112, first paragraph and 35 U.S.C. § 103. Claims 19 and 21 have been amended. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 19 – 27 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Office Action states that the claims “contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 19 and 21 have been amended. Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a) Over De Boer and Mattson

Claims 19 – 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over De Boer et al, (JP 02227051)(“De Boer”) in view of Mattson (US Patent No. 4,034,083). Applicants respectfully traverse this rejection.

Claim 19 is directed towards, *inter alia*, a composition comprising an amount of a polyol fatty acid polyester effective to increase fecal hair excretion or to treat a hairball in a mammal wherein the mammal is selected from the group consisting of cats and rabbits. Claim 21 is directed towards, *inter alia*, a pet food composition comprising a polyol fatty acid polyester wherein the composition provides from about 0.001 to about 400 mg of the polyol fatty acid ester per kg body weight of the mammal, wherein the mammal is selected from the group consisting of cats and rabbits.

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Obviousness is based on the following factual inquiries: 1) determining the scope and contents of the prior art; 2) ascertaining the differences between the prior art and the claims in issue; 3) resolving the level of ordinary skill in the pertinent art; and 4) evaluating evidence of secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). De Boer is directed to "application of nonfermentable dietary fiber as an archorrhea-preventing agent in low-calorie food products comprising an indigestible single-blend polyol fatty acid polyester." Page 6, para 3. Mattson is directed to "[p]olyol fatty acid polyesters having at least four fatty acid ester groups are fortified with fat-soluble vitamins and used in pharmaceutical compositions for treating and/or preventing hypercholesterolemia in animals, especially humans, and in low-calorie foods." *Abstract*. As best understood by Applicants, De Boer and Mattson are, therefore, directed to compositions for low calorie foods, reducing cholesterol and treating and/or preventing hypercholesterolemia. De Boer and Mattson, either alone or in combination, however, fail to teach the compositions of the current application.

The claims of the current application are directed to compositions for mammals, wherein the mammals are selected from the group consisting of cats and rabbits. Neither De Boer or Mattson disclose that their compositions are for mammals such as cats and rabbits. Furthermore, as best understood by Applicants, neither De Boer or Mattson disclose that their compositions would be useful for mammals such as cats and rabbits. Additionally, as already noted, De Boer and Mattson are focused on low-calorie foods, cholesterol and hypercholesterolemia. Neither De Boer or Mattson disclose the use of a composition comprising an amount of polyol fatty acid polyester effective to increase fecal hair excretion or treat a hairball. While the compositions of De Boer and Mattson may comprise polyol fatty acid polyesters, there is no disclosure in De Boer and Mattson, either alone or in combination, that would provide one of ordinary skill in the art with a reasonable expectation of success in the use of the compositions in mammals such as cats and rabbits or in the use of the compositions to provide for an increase in fecal hair excretion or treatment of a hairball in a mammal such as a cat or rabbit.

Applicants respectfully request reconsideration and withdrawal of the rejection.

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Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application and allowance of the pending claims are respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By Sarah Ann Dressel
Sarah Ann Dressel
Registration No. 58,484
(513) 634-1452

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